

**REQUEST FOR QUALIFICATIONS
AUDITING SERVICES**

Dated: March 5, 2009



**California Infrastructure and Economic Development Bank
980 9th Street, 9th Floor
Sacramento, CA 95814**

**Responses shall be submitted via electronic mail (email) to ibank@ibank.ca.gov
no later than
3:00 p.m. (Pacific Daylight Time)
April 6, 2009**

CALIFORNIA INFRASTRUCTURE AND ECONOMIC DEVELOPMENT BANK

REQUEST FOR QUALIFICATIONS FOR PROFESSIONAL AUDITING SERVICES

Dated: March 5, 2009

I. INTRODUCTION

The California Infrastructure and Economic Development Bank (I-Bank) is requesting statements of qualifications from Firm or Firms of certified public accountants interested in providing auditing services to the I-Bank and having sufficient governmental and auditing experience in preparing comprehensive financial statements and notes in accordance with the specifications outlined in this Request for Qualifications (RFQ). These auditing services will result in completion of the I-Bank annual audited financial statements beginning with the 2008-2009 fiscal year. The audited financial statements are required to meet disclosure obligations arising from the I-Bank's issuance and sale of tax-exempt bonds for its Infrastructure State Revolving Fund Program.

The scope of services and the information to be submitted are outlined in this RFQ. The I-Bank intends to select a firm (Firm or Auditor) and to enter into a three-year agreement with the selected Firm to perform auditing services as described in this RFQ. The I-Bank reserves the right to extend the term of this contract for up to two (2) additional years subject to the satisfactory negotiation of terms, including a price acceptable to both the I-Bank and the selected Firm.

It is the I-Bank's intention to also simultaneously release an RFQ for Professional Accounting Services. A proposal can be submitted for both RFQs. However, due to the nature of the accounting activities, the same Firm cannot conduct both the auditing and accounting services contemplated (See Section IX, E., RFQ Selection Process form more information).

II. NATURE OF SERVICES REQUIRED

A. Scope of Work to Be Performed. The I-Bank is seeking a qualified independently licensed Certified Public Accountant Firm having sufficient governmental auditing experience to prepare and express an opinion on the financial statements of the business-type activities, each fund and the aggregate fund information of the I-Bank, and to fairly present its general purpose financial statements in conformity with the generally accepted accounting principals in the United States. The selected independent Auditor will perform the following tasks:

- a. Establish an audit schedule prior to the commencement of work in each year which shall be mutually agreeable to the Auditor and the I-Bank, provided that the final audit reports shall be made available to the I-Bank by no later than October 1 each year.

- b. Conduct three consecutive annual audits of all I-Bank funds beginning with the 2008-2009 fiscal year, and annually conduct an audit during the term of the engagement. **The I-Bank reserves the right to extend the term of this engagement for up to two (2) additional years subject to the satisfactory negotiation of terms, including a price acceptable to both the I-Bank and the selected Firm.** The Auditor will also review and apply limited audit procedures to the Management Discussion and Analysis (MD&A).
 - c. Issue a separate “management letter” that includes recommendations for improvements in internal controls, accounting procedures and other significant observations that are considered to be non-reportable conditions. Management letters shall be addressed to the Executive Director of the I-Bank.
 - d. Respond to the reasonable inquiries of successor auditors and allow successor auditors to review working papers relating to matters of continuing accounting significance.
- B. Auditing Standards to Be Followed.** The audit will be conducted in accordance with generally accepted auditing standards as set forth by the American Institute of Certified Public Accountants including Applicable Pronouncements of the Governmental Accounting Standards Board, and shall include such tests of the accounting records and such other auditing procedures as shall enable the auditors to express an opinion as to the accounts and financial statements.. The Auditor will render their Auditors’ report on the basic financial statements which will include Fund Financial Statements. The Auditor shall prepare audit reports, financial statements, and notes to the financial statements while maintaining compliance with GASB 34 for each year of the engagement.
- C. Working Paper Retention.** All working papers and reports must be retained at the auditor’s expense for a minimum of seven (7) years, unless the Firm is notified in writing by the I-Bank of the need to extend the retention period. The auditor will be required to make working papers available to the I-Bank or any other entity authorized by the I-Bank.
- D. Irregularities and Illegal Acts.** The Auditor shall be required to make an immediate written report of all irregularities and illegal acts or indications of illegal acts of which they become aware to the following parties: I-Bank Executive Director, Assistant Executive Director and General Counsel.

III. MINIMUM QUALIFICATIONS

Each of the following qualifications shall be met in order for a Firm to be considered qualified for the purposes of this RFQ. The I-Bank deems the following qualifications necessary to ensure the credibility, acceptance and confidence of the investors of the I-Bank’s ISRF Programs Bonds (more fully explained below) and that of other interested parties. Failure to satisfy the following qualifications shall result in the immediate rejection of the Firm’s proposal. The Firm shall meet the following minimum qualifications:

- A. The Firm must be a professional public accounting, tax and consulting firm in the State of California (State) as recognized within the accounting, tax and consulting industry and by

the American Institute of Certified Public Accountants (AICPA), and must maintain an office within the State.

- B.** The Firm must have been engaged to audit financial statements for the State of California or at least one State Agency, department, board or authority in the last three years.
- C.** The Firm must have been engaged to audit financial statement for at least three California government entities in the last three years, and the financial audit performed must have covered revenue bonds or general obligation bonds issued by the local government entity.
- D.** The Firm must possess sufficient staffing, financial and physical resources to annually perform the scope of services of this RFQ by October 1st of each year. The firm must provide the name of a primary contact for this agreement. This person must be accessible to the I-Bank by an electronic email device such as a Blackberry or similar mobile device.
- E.** The Firm must have continuous errors and omissions insurance coverage of at least \$1 million.
- F.** The Firm must be willing to enter into an agreement for audit services with the I-Bank consistent with the minimum general terms and conditions contained in Attachment A.
- G.** The Firm's proposal to this RFQ shall be signed by an individual authorized to bind the Firm and contain the certification required in Section VI. Submission Requirements, Subsection N. of this RFQ.

IV. DESCRIPTION OF THE I-BANK

- A. I-Bank Background.** The I-Bank was created in 1994 by the Bergeson-Peace Infrastructure and Economic Development Bank Act (Act) to provide the State of California (State) with an entity that has broad powers to finance a wide array of public development facilities and economic development facilities. The Act and subsequent legislation provided the I-Bank with authority to, among other things, issue revenue bonds, make loans, provide credit enhancements, acquire and lease property and leverage State and Federal funds.

The I-Bank is governed by a five-member board of directors (Board) that consists of the Secretary of the Business, Transportation and Housing Agency, who serves as the chair, the State Treasurer, the Director of the State Department of Finance, the Secretary of the State and Consumer Services Agency, and an appointee of the Governor.

The I-Bank's primary programs currently include:

- *Infrastructure State Revolving Fund (ISRF) Program* (provides low-cost financing to local agencies for public infrastructure projects);

- *Industrial Development Revenue Bond Program (IDB Program)* (provides tax-exempt revenue bond financing for eligible small- to mid-size manufacturing companies);
- *Exempt Facility Revenue Bond Program* (provides tax-exempt revenue bond financing for certain IRS-approved activities);
- *501(c)(3) Revenue Bond Program* (provides tax-exempt revenue bond financing for certain nonprofit public benefit corporations);
- *State School Fund Apportionment Lease Revenue Bond Program* (provides tax-exempt revenue bond financing for school districts needing emergency apportionment loans);
- *Public Agency Revenue Bond Program* (provides tax-exempt revenue bond financing for governmental entities, including the I-Bank for the purpose of funding its ISRF Program); and,
- *Other Tax-Exempt Revenue Bonds* (this category captures I-Bank bonds that don't meet the criteria of any of the five revenue bond programs listed above).

(The IDB Program, the Exempt Facility Revenue Bond Program, the 501(c)(3) Revenue Bond Program, the State School Fund Apportionment Lease Revenue Bond Program, the Public Agency Revenue Bond Program and Other Tax-Exempt Revenue Bonds are collectively referred to as the Bond Financing Programs.)

Below is information on the ISRF Program and the Bond Financing Programs.

- B. Infrastructure State Revolving Fund (ISRF) Program.** The ISRF Program is a statewide program that provides low-cost, long-term loans¹ up to \$10 million per project for sixteen statutorily designated categories of public infrastructure. ISRF Program eligible applicants include local government entities such as cities, counties, redevelopment agencies, special districts, assessment districts and joint powers authorities.

The ISRF Program was originally funded from State General Fund appropriations of \$50 million in the 1998/1999 State Budget and \$425 million in the 1999/2000 State Budget. Of this amount, \$293 million was redirected back to the General Fund in the 2001/2002 and 2002/2003 State Budgets to assist the State in addressing its budget deficit, leaving a net of \$182 million plus interest earnings for the program. While the appropriated funds have been committed to ISRF Program borrowers, additional ISRF Program financing has been made available because of an innovative “leveraged loan program” structure which involves the issuance of revenue bonds secured by the repayments from previously-approved loans. To date, the I-Bank has issued three series of tax-exempt revenue bonds totaling \$152 million to provide additional funding for the ISRF Program (ISRF Program Bonds)². The ISRF Program Bonds are unenhanced and rated “AA+,” “Aa2,” and “AA+” by Fitch Ratings, Moody’s Investors Service and Standard & Poor’s, respectively. Since

¹ The term “Loans” is generically used to mean loans, leases/leaseback agreements and installment sale agreements.

² \$51,370,000 of ISRF Bonds, Series 2004 issued on March 18, 2004; \$52,800,000 of ISRF Bonds, Series 2005 issued on December 14, 2005; and, \$48,375,000 of ISRF Bonds, Series 2008 issued on September 24, 2008.

June 2000, the I-Bank Board has 88 outstanding ISRF Program loans totaling nearly \$348 million.

The ISRF Program Bonds are primarily secured by a pool of existing loans pledged to each series under a Series Indenture. The ISRF Program Bonds are further secured by collateral under a Master Indenture consisting of existing coverage from all outstanding parity series and any remaining loans pledged to the Master Indenture.

In connection with the sale of the ISRF Program Bonds, the I-Bank has committed to annually file copies of its audited financial statements through a dissemination agent with certain nationally recognized municipal securities information repositories recognized by the United States Securities and Exchange Commission. The I-Bank anticipates that it will issue additional series of ISRF Program Bonds every 12-24 months, and that these bonds are anticipated to also require continuing disclosure of audited financial statements.

- C. Bond Financing Programs.** Pursuant to its Bond Financing Programs, the I-Bank serves as an issuer of revenue bonds, the proceeds of which are loaned to and repaid by participating parties for the purpose of financing economic development facilities within California. Excluding the ISRF Program Bonds, which have been issued to leverage the ISRF Program, the I-Bank and the California Economic Development Financing Authority, a predecessor to the I-Bank³, have since 1995 served as the issuers for over \$5.1 billion of bonds under the Bond Financing Programs (these bonds are referred to herein as the I-Bank's Conduit Bonds).

The I-Bank receives fee revenue from the sale of Conduit Bonds which is accounted for in its audited financial statements. The I-Bank is responsible for the repayment of the Conduit Bonds only from revenues received from the borrower of the bond proceeds. As such, the financial activity related to the Conduit Bonds does not appear on the I-Bank's audited financial statements.

- D. I-Bank Funds.** The I-Bank's financial records are organized into two enterprise funds, the California Infrastructure and Economic Development Bank Fund (CIEDB Fund) and the California Infrastructure Guarantee Trust Fund (Guarantee Trust Fund). (The CIEDB Fund and the Guarantee Trust Fund are collectively the I-Bank Funds.)

The funds in the CIEDB Fund are held within the State's centralized treasury system and in approximately forty-five trustee accounts held by Wells Fargo Bank, the trustee for the ISRF Program Bonds (Trustee). Funds in the Guarantee Trust Fund are held solely within the State's centralized treasury system.

All I-Bank operating activity is accounted for in the CIEDB Fund. As an entity within the State of California, the I-Bank's fiscal year end is June 30th.

- E. Source Documentation and Accounting System Applications.**

³ In 1999, the I-Bank assumed the responsibilities, liabilities and obligations of the former California Economic Development Financing Authority.

I-Bank staff utilizes QuickBooks to maintain stand-alone financial records for the I-Bank Funds. I-Bank staff internally compile fiscal data and prepare unaudited monthly and year end balance sheets and income statements for the CIEDB Fund, and annual balance sheet and income statements for the Guarantee Trust Fund.

Accounting information for the loans made under the ISRF Program is maintained on proprietary software issued by Misys Inc., known as the LA Pro Accounting System (LA Pro). The I-Bank staff enters all loan origination data, loan disbursements and loan payment data into LA Pro, and uses the application to calculate principal and interest on outstanding loans and generate loan payment invoices and management reports.

Since January 1, 2004, the California Highway Patrol (CHP), an the entity within the State of California, has provided accounting services to the I-Bank for all funds in the I-Bank Funds held in the State's centralized treasury system. The CHP utilizes the CALSTARS accounting system. Additional source documentation will include accounting data and statements prepared by the CHP.

Source documents will also include accounting data and statements prepared by the Trustee for the Trustee-held funds related to the ISRF Program Bonds. The Trustee provides accounting services for the Trustee-held accounts that are solely in the CIEDB Fund.

Thus, accounting records from the CHP, the Trustee and the I-Bank will need to be examined in relation to any audit of the I-Bank Funds.

All funds are recorded using an accrual basis of accounting, except for those funds accounted for by the CHP, which are recorded using a modified accrual basis of accounting.

- F. Availability of Prior Audits, Account Information and Work Papers.** Copies of prior year's audits, a listing of Trustee accounts and QuickBooks accounts are available on the I-Bank's website at: www.ibank.ca.gov.

Gilbert Associates, Inc. in Sacramento, California conducted the I-Bank's audit for the prior five fiscal years—from 2003-2004 through 2007-2008. The work papers of the previous audit are the property of the previous auditor, and the work papers related to the 2007-2008 audit can be reviewed by the firm with whom the I-Bank contracts for auditing services.

- G. Staffing Assistance to the Auditor.** I-Bank and CHP staff will be available during the audit to assist the Auditor by providing information, documentation and explanations. Merrill Stevenson, Credit Support Unit Manager, will initially be responsible for acting as the liaison between the Auditor and the accounting personnel.
- H. Location/Facilities for Performance of Work.** Work will be performed at the I-Bank's office located at 980 9th Street, 9th Floor, Sacramento, California 95814, and at the CHP Headquarters located at 860 Stillwater Road, West Sacramento, California 95605

The I-Bank will provide the Auditor with reasonable work space, desks and chairs. The auditor will also be provided access to a telephone and photocopying and facsimile machines.

V. FEE PROPOSAL

1. **Fee Proposal.** Provide the fee proposal on a “per report” basis. The fee proposal shall include all fees and expenses for performing the scope of services described in this RFQ for each applicable year of a three-year agreement. This fee proposal shall include indirect and direct costs, start-up costs and expected out-of-pocket costs (parking, copying, postage, etc.).
2. **Manner of Payment.** Up to 75% of the total fee may be billed through progress payment billings prior to the submission of the final report to the CIEDB. Interim billings shall cover a period of not less than a calendar month and shall be related to work performed. The final payment for each year shall be made after receipt and acceptance of the completed final audit.
3. **Bound and Electronic Copies of the Audit.** The fee proposal shall include the delivery of an electronic copy and twenty (25) bound copies of each audit.

VI. CONTRACT TERM AND RFQ TIMELINE

- A. **Contract Term.** The I-Bank intends to select a Firm and to enter into an agreement for a term of three years with the selected Firm to perform auditing services as described in this RFQ to audit I-Bank Funds financial activity from fiscal year 2008-2009 through 2010-2011. The I-Bank reserves the right to extend the term of this contract for up to two (2) additional years subject to the satisfactory negotiation of terms, including a price acceptable to both the I-Bank and the selected Firm.

The I-Bank anticipates a contract start date of no later than the June 1, 2009.

- B. **RFQ Timeline.** The following is a list of key dates up to and including the date proposals are to be submitted:

Event	Time	Date
RFQ available to prospective bidders		3/05/09
Written questions to be sent via e-mail to ibank@ibank.ca.gov no later than	3:00pm	3/19/09
All questions received by the deadline and the written responses will be posted to the I-Bank's website at www.ibank.ca.gov by	5:00pm	3/25/09
Final date for submission of RFQ Proposal via e-mail to ibank@ibank.ca.gov by	3:00pm	4/06/09
Selection recommendation to the I-Bank Board projected to be on <i>(The I-Bank reserves the right to make a selection at a later meeting or to not make a selection at all.)</i>		4/28/09

VII. SUBMISSION REQUIREMENTS

Firms interested in providing audit services to the I-Bank are requested to submit the following information, in the order of sections and method specified below. Failure to answer all questions or provide the requested information asked in the RFQ may result in the proposal being deemed non-responsive. Please limit the total length of the response to 20 pages or less, including the Executive Summary and any attachments. (Label and attach all submittals with the letter and title of each requirement below.)

A. Executive Summary

Provide an executive summary describing the highlights of the statement of qualifications in response to this RFQ (2-page maximum).

B. RFQ Contact Person

Provide the name, title, address, e-mail address, telephone and fax numbers of the person who will serve as the Firm's primary contact regarding this RFQ. This person must be accessible to I-Bank by an electronic email device such as a Blackberry or similar mobile device.

C. Minimum Qualifications

Discuss how the Firm meets the minimum qualifications described in Section III. of this RFQ.

D. Firm Overview

Provide a brief description of the Firm and its organizational structure, including the location(s) of the office(s) in California from which the primary work on this contract is to be performed. Describe the staffing levels of the Firm's operations. Explain any significant changes in staffing and/or organization of the Firm during the previous three years. Please also state whether the Firm is a certified small business, as established by the California Department of General Services.

E. Firm Experience

1. Describe the Firm's experience in providing audit services for the State of California for at least one State agency, department, board or authority in the last three years. Provide the contact information for the State staff responsible for the engagement(s). The I-Bank may wish to contact this government entity as part of the analysis of the Firm's proposal. If available, provide the website link to the audit on the State entity's website.
2. Describe the Firm's experience in providing audit services for at least three California local government entities in the last three years in which the financial audit covered revenue bonds or general obligation bonds issued by the local government entity. Identify the bonds that were included in the audit. Provide contact information for the staff responsible for the engagement(s). The I-Bank may wish to contact this government entity as part of the analysis of the Firm's proposal. If available, provide the website link to the audits on the local government entities' websites.

F. Staff Qualifications

Provide brief resumes for each partner, manager, supervisor and staff member that will be assigned to perform the auditing services identified in this RFQ. At a minimum, the resumes should cover the relevant experience and educational background, professional licenses, relevant recent training, and any specialized training, skills and background in public finance. The resumes may also include information regarding the individual's participation in State or national professional organizations, speaker or instructor roles in conferences or seminars or authorship of articles and books.

Engagement partners, managers, supervisory and other staff may be changed if those personnel leave the Firm, are promoted or are assigned to another office. These individuals may also be changed for other reasons with the express prior written permission of the I-Bank. However, in either case, the I-Bank retains the right to approve or reject replacements.

G. Commitment to Provide Audit Services in the State

Please describe the Firm's commitment to provide audit services in California. Include answers to the following questions in the response:

1. How many employees does the Firm have in California?
2. Has the Firm opened or closed offices in California or otherwise changed its operations within the State during the last three years?
3. What are the Firm's plans for its government accounting practice in California during the next three years?

H. Conflict of Interest

If the Firm is selected to provide the services identified in this RFQ, will the contract between the Firm and the I-Bank create any current or potential conflicts of interest between the Firm's obligations to the I-Bank and the Firm's obligations to other clients of the Firm? Should the Firm know of any existing or potential conflicts of interest, please describe the nature of the conflict.

I. Legal Proceedings

Please indicate whether the Firm, any related entity, any principal of the Firm, or any individual identified in the response to this RFQ is or has been within the last five years:

- (i) The subject of any criminal or regulatory investigation or action; or,
- (ii) A defendant in any civil litigation.

If so, include a full description of the matter and resolution. Limit the response to matters relating to the provision of audit or accounting services which could or have had a material effect on the Firm's ability to perform the services requested in this RFQ.

J. References

Please provide the contact name, address and telephone number of five references from governmental agencies for which the Firm has provided audit services (contacts can duplicate contacts identified in Subsection E above).

K. Insurance

Describe the Firm's level of insurance for errors and omissions and other relevant insurance coverage and provide the name of the insurer and the scope of coverage.

L. Additional Information

Provide any other information that may be relevant to the I-Bank's selection process including but not limited to samples of reports and other deliverables applicable to the Scope of Services requested in this RFQ (additional information may be attached as an appendix or appendices).

M. Fee Proposal

Firms must submit a fee proposal using this chart below.

	Fiscal Year 2008/2009	Fiscal Year 2009/2010	Fiscal Year 2010/2011	Total
Bid Amount	\$	\$	\$	\$

N. Certification

As required in Section II. H., the cover letter to the proposal must contain the following certification:

I, the undersigned, am an authorized representative of _____ (Firm), have read and thoroughly understand the specifications, instructions and all other conditions of the RFQ for Professional Auditing Services issued by the California Infrastructure and Economic Development Bank (I-Bank) for the fiscal years ended June 30, 2009, 2010 and 2011.

Acting on behalf of the Firm, I do attest that the services offered by us meet the I-Bank's specifications in every respect (check one) ____ without exception/____ with exception.

[If "with exception" is checked, please briefly describe.]

We, therefore, offer and make this proposal to furnish the I-Bank the auditing services detailed in this proposal at the prices indicated.

O. Method of Submission of Proposal.

Submission of proposal in response to this RFQ shall be by **e-mail only** and must be provided in a PDF format. Proposals will be accepted until 3:00 p.m. (Pacific Daylight Time) on April 6, 2009 at the following e-mail address: ibank@ibank.ca.gov .

Please call Debra Otto at (916) 323-9570 if the contact person does not receive an e-mail confirming the receipt of the RFQ proposal. Firms that do not receive confirmations from the I-Bank accept the risk that their proposal has not been received. Any proposal not received on a timely basis will not be considered.

VIII. RULES AND CONDITIONS

- A. The I-Bank is not responsible for any expense incurred in preparing and submitting a response to this RFQ or taking any action in connection with the selection process, or for the costs of any services performed by any Firm prior to the execution of a contract with the I-Bank.
- B. All materials submitted in response to this RFQ become property of the I-Bank and will not be returned. The materials will be a public record subject to disclosure under the California Public Records Act (Government Code Section 6250, et seq.).
- C. The I-Bank retains the discretion to decide not to utilize the services of any selected Firm or to terminate the selection without cause and without penalty, and selection of a Firm does not assure that any services will ultimately be requested.
- D. The I-Bank reserves the right to modify and/or suspend any and all aspects of this RFQ, obtain further information from any Firm responding to this RFQ, waive any defect as to form or content of this RFQ or any response thereto, and reject any and all responses to this RFQ.
- E. No Firm responding to this RFQ shall obtain any claim or right of action against the I-Bank by reason of any aspect of this RFQ process, including but not limited to the following: defects or abnormalities contained herein; defects or abnormalities in the selection process; the rejection of any proposal; the acceptance of any proposal; any statements, representation, acts or omissions of the I-Bank; the exercise of any I-Bank discretion set forth in or with respect to any of the foregoing; and, any and all other matters arising out of all or any of the foregoing.
- F. Oral communications with I-Bank officers and employees shall be non-binding on the I-Bank and shall in no way exempt the applicant from obligations as set forth in this RFQ.
- G. The I-Bank reserves the right to select a Firm that will best meet the I-Bank's needs, regardless of differences in fees and expenses among responders to this RFQ. The I-Bank retains the right to waive irregularities in any response.

IX. RFQ SELECTION PROCESS

A selection committee made up of I-Bank staff will review and score all responses to this RFQ received by the deadline. Those responses complying with Section III Minimum Qualifications will be evaluated based on the following criteria:

- A. Firm's Qualifications and Experience. The quality and depth of the Firm's staff expertise, capability and prior experience in providing auditing services including, but not limited to, past performance on audits of comparable magnitude and complexity in California. Client references may be contacted to further understand the Firm's qualifications, experience and performance.

- B. Competitiveness of proposed fees.
- C. Overall quality of the written response to this RFQ.
- D. This RFQ is being issued together with a second RFQ for professional accounting services. A proposal can be submitted for both RFQs; however no single firm will be selected to perform the scope of services identified in both RFQs.

Oral interviews may be scheduled by phone and the notice of the interview schedule, if any, will be provided to the primary contact designated by the Firm.

ATTACHMENT A

AGREEMENT GENERAL TERMS AND CONDITIONS

1. AUDIT: Contractor agrees that the awarding department, the Department of General Services, the Bureau of State Audits, or their designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. Contractor agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated. Contractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, Contractor agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement. (Gov. Code §8546.7, Pub. Contract Code §10115 et seq., CCR Title 2, Section 1896).
2. NON-DISCRIMINATION CLAUSE: During the performance of this Agreement, Contractor and its subcontractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (cancer), age (over 40), marital status, and denial of family care leave. Contractor and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12990 (a-f) et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.

Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Agreement.

3. DRUG-FREE WORKPLACE REQUIREMENTS: Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 and will provide a drug-free workplace by taking the following actions:
 - a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.
 - b. Establish a Drug-Free Awareness Program to inform employees about:
 1. the dangers of drug abuse in the workplace;

2. the person's or organization's policy of maintaining a drug-free workplace;
 3. any available counseling, rehabilitation and employee assistance programs; and,
 4. penalties that may be imposed upon employees for drug abuse violations.
- c. Every employee who works on the proposed Agreement will:
1. receive a copy of the company's drug-free workplace policy statement; and,
 2. agree to abide by the terms of the company's statement as a condition of employment on the Agreement.

Failure to comply with these requirements may result in suspension of payments under the Agreement or termination of the Agreement or both and Contractor may be ineligible for award of any future State agreements if the department determines that any of the following has occurred: the Contractor has made false certification, or violated the certification by failing to carry out the requirements as noted above. (Gov. Code §8350 et seq.)

4. EXPATRIATE CORPORATIONS: Contractor hereby declares that it is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of Public Contract Code Section 10286 and 10286.1, and is eligible to contract with the State of California.
5. DOMESTIC PARTNERS: For contracts over \$100,000 executed or amended after January 1, 2007, the contractor certifies that contractor is in compliance with Public Contract Code section 10295.3.
6. CHILD SUPPORT COMPLIANCE ACT: "For any Agreement in excess of \$100,000, the contractor acknowledges in accordance with Public Contract Code 7110, that:
 - a. The contractor recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the Family Code; and
 - b. The contractor, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department."
7. AMERICANS WITH DISABILITIES ACT: Contractor assures the State that it complies with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. (42 U.S.C. 12101 et seq.)

8. AMENDMENT: No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or Agreement not incorporated in the Agreement is binding on any of the parties.
9. ASSIGNMENT: This Agreement is not assignable by the Contractor, either in whole or in part, without the consent of the State in the form of a formal written amendment.
10. INDEMNIFICATION: Contractor agrees to indemnify, defend and save harmless the State, its officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, suppliers, laborers, and any other person, firm or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by Contractor in the performance of this Agreement.
11. CONFLICT OF INTEREST: Contractor needs to be aware of the following provisions regarding current or former state employees. If Contractor has any questions on the status of any person rendering services or involved with the Agreement, the awarding agency must be contacted immediately for clarification.

For Current State Employees (Pub. Contract Code §10410):

- a. No officer or employee shall engage in any employment, activity or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any state agency, unless the employment, activity or enterprise is required as a condition of regular state employment.
- b. No officer or employee shall contract on his or her own behalf as an independent contractor with any state agency to provide goods or services.

For Former State Employees (Pub. Contract Code §10411):

- a. For the two-year period from the date he or she left state employment, no former state officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the contract while employed in any capacity by any state agency.
- b. For the twelve-month period from the date he or she left state employment, no former state officer or employee may enter into a contract with any state agency if he or she was employed by that state agency in a policy-making position in the same general subject area as the proposed contract within the 12-month period prior to his or her leaving state service.

If Contractor violates any provisions of above paragraphs, such action by Contractor shall render this Agreement void. (Public Contract Code §10420)

Members of boards and commissions are exempt from this section if they do not receive payment other than payment of each meeting of the board or commission, payment for preparatory time and payment for per diem. (Public Contract Code §10430 (e))

12. GOVERNING LAW: This contract is governed by and shall be interpreted in accordance with the laws of the State of California.
13. CORPORATE QUALIFICATIONS TO DO BUSINESS IN CALIFORNIA:
 - a. When agreements are to be performed in the state by corporations, the contracting agencies will be verifying that the contractor is currently qualified to do business in California in order to ensure that all obligations due to the state are fulfilled.
 - b. "Doing business" is defined in R&TC Section 23101 as actively engaging in any transaction for the purpose of financial or pecuniary gain or profit. Although there are some statutory exceptions to taxation, rarely will a corporate contractor performing within the state not be subject to the franchise tax.
 - c. Both domestic and foreign corporations (those incorporated outside of California) must be in good standing in order to be qualified to do business in California. Agencies will determine whether a corporation is in good standing by calling the Office of the Secretary of State.